

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JACOB CASIAS,  
Plaintiff,

v.

F. TAPIA-ALCAZAR, JR., et al.,  
Defendants.

Case No. 25-cv-00316 BLF (PR)

**ORDER OF SERVICE; DIRECTING  
DEFENDANTS TO FILE  
DISPOSITIVE MOTION OR  
NOTICE REGARDING SUCH  
MOTION; INSTRUCTIONS TO  
CLERK**

Plaintiff, a state prisoner, filed the instant *pro se* civil rights action pursuant to 42 U.S.C. § 1983 against correctional officers and mental health staff at Salinas Valley State Prison (“SVSP”), where he was previously confined. Dkt. No. 9.<sup>1</sup> Plaintiff is currently at the California Health Care Facility in Stockton. *Id.* at 1. This matter was transferred to this district from the Eastern District of California, and then subsequently reassigned to the undersigned. Dkt. Nos. 5, 15. Plaintiff’s motion for leave to proceed *in forma pauperis* will be addressed in a separate order.

///

---

<sup>1</sup> The initiating document filed on December 31, 2024, was not signed, so Plaintiff was directed to file a signed complaint. Dkt. No. 6. On January 22, 2025, Plaintiff filed the signed complaint which is the operative complaint in this matter. Dkt. No. 9.

## DISCUSSION

### A. Standard of Review

A federal court must conduct a preliminary screening in any case in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity. *See* 28 U.S.C. § 1915A(a). In its review, the court must identify any cognizable claims and dismiss any claims that are frivolous, malicious, fail to state a claim upon which relief may be granted or seek monetary relief from a defendant who is immune from such relief. *See id.* § 1915A(b)(1),(2). Pro se pleadings must, however, be liberally construed. *See Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1988).

To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential elements: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged violation was committed by a person acting under the color of state law. *See West v. Atkins*, 487 U.S. 42, 48 (1988).

### B. Plaintiff's Claims

Plaintiff alleges that on April 24, 2023, Defendant Sgt. M. Meyer gave the order to open Plaintiff's cell in the administrative segregation unit ("ASU"). Dkt. No. 9 at 4. Then Defendants E. Barbosa, F. Tapia-Alcazar, Jr., M. Miranda, A. Morales, Y. Washington, and D. Leon entered the cell and used excessive force while placing Plaintiff in handcuffs. *Id.* at 4-5. He also alleges that Defendant T. Tucker was involved in the use of excessive force. *Id.* at 4. Plaintiff was not resisting, and he informed Defendants that he could not breathe and was going to hang himself. *Id.* Plaintiff claims that as a result of the incident, he suffered injuries to his back and shoulders as well as deep cuts in his hands and wrists because the handcuffs were too tight. *Id.* at 5-6.

Plaintiff also claims that from April 23, 2023, through June 29, 2023, he requested mental health care and treatment while in ASU because he was suicidal but that none of the Doe Defendants (mental health care staff) called for a "Crisis Intervention Team" (CIT). *Id.* at 7. Then on June 29, 2023, Plaintiff heard voices and was hallucinating, as

1 well as experiencing anxiety and deep depression. *Id.* He informed “Defendants  
2 Correction Staff, Mental Health staff, and the Psych Techs on duty in the ASU that day,”  
3 that he was going to hang himself but “all of the Defendants on duty refused to contact the  
4 CIT.” *Id.* at 7-8. Later that day, Plaintiff attempted to hang himself and was discovered  
5 unconscious by “Defendants Doe I through Doe IV,” who then provided emergency  
6 medical treatment. *Id.* at 8.

7 Lastly, Plaintiff claims that From April 24, 2023, through June 29, 2023, he  
8 suffered serious emotional injuries “due to these Defendants’ actions,” including the  
9 excessive force and the denial of mental health treatment. *Id.* at 9. Plaintiff seeks  
10 declaratory relief as well as damages. *Id.* at 10.

11 Based on the allegations, the Court finds the complaint states the following  
12 cognizable claims: (1) excessive force claim against correctional officers who entered  
13 Plaintiff’s cell on April 24, 2023, *see Hudson v. McMillian*, 503 U.S. 1, 6-7 (1992); (2)  
14 deliberate indifference to serious mental health needs against Doe Defendants, who were  
15 SVSP’s mental health staff, *see Doty v. County of Lassen*, 37 F.3d 540, 546 (9th Cir.  
16 1994); and (3) a damage claim for emotional injuries suffered that is accompanied by  
17 physical injury that is not de minimis, *see* 42 U.S.C. § 1997e(e); *Oliver v. Keller*, 289 F.3d  
18 623, 627-29 (9th Cir. 2002).

19 Although the use of “John Doe” to identify a defendant is not favored in the Ninth  
20 Circuit, *see Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980); *Wiltsie v. Cal. Dep’t of*  
21 *Corrections*, 406 F.2d 515, 518 (9th Cir. 1968), situations may arise where the identity of  
22 alleged defendants cannot be known prior to the filing of a complaint. In such  
23 circumstances, the plaintiff should be given an opportunity through discovery to identify  
24 the unknown defendants, unless it is clear that discovery would not uncover their identities  
25 or that the complaint should be dismissed on other grounds. *See Gillespie*, 629 F.2d at  
26 642; *Velasquez v. Senko*, 643 F. Supp. 1172, 1180 (N.D. Cal. 1986). Here, it appears that  
27 Plaintiff may be able to identify the appropriate mental health care defendants by name  
28

through discovery. Therefore, Plaintiff shall be given an opportunity to identify John Doe Defendants through discovery and file a motion to amend to add their proper names to this action in the time provided below. *See infra* at 7, par. 9.

Plaintiff also names the following as defendants but makes no specific factual allegations against them in the complaint: Correctional Officers Carcia, Arminata, and McNeil. Dkt. No. 9 at 1-2. Accordingly, these defendants shall be terminated from this action. Plaintiff may seek leave to amend to attempt to state factual allegations against them sufficient to state a claim and add them back to this action if he can do so in good faith.

### CONCLUSION

For the foregoing reasons, the Court orders as follows:

1. Defendants Carcia, Arminata, and McNeil are **DISMISSED** without prejudice from this action as Plaintiff makes no claims against them. **Within twenty-eight (28) days** from the date this order is filed, Plaintiff may seek leave to amend to attempt to state factual allegations against them sufficient to state a claim.

The Clerk shall terminate Defendants Carcia, Arminata, and McNeil from this action.

2. The following Defendants shall be served at SVSP:

- a. **Sgt. M. Meyer**
- b. **Correctional Officer F. Tapia-Alcazar, Jr.**
- c. **Correctional Officer T. Tucker**
- d. **Correctional Officer D. Leon**
- e. **Correctional Officer A. Morales**
- f. **Correctional Officer M. Miranda**
- g. **Correctional Officer Y. Washington**
- h. **Correctional Officer E. Barbosa**

1 Service on the listed defendant(s) shall proceed under the California Department of  
2 Corrections and Rehabilitation's (CDCR) e-service program for civil rights cases from  
3 prisoners in CDCR custody. In accordance with the program, the clerk is directed to serve  
4 on CDCR via email the following documents: the operative complaint and any attachments  
5 thereto, Dkt. No. 9, this order of service, and a CDCR Report of E-Service Waiver form.  
6 The clerk also shall serve a copy of this order on the plaintiff.

7 No later than 40 days after service of this order via email on CDCR, CDCR shall  
8 provide the court a completed CDCR Report of E-Service Waiver advising the court which  
9 defendant(s) listed in this order will be waiving service of process without the need for  
10 service by the United States Marshal Service (USMS) and which defendant(s) decline to  
11 waive service or could not be reached. CDCR also shall provide a copy of the CDCR  
12 Report of E-Service Waiver to the California Attorney General's Office which, within 21  
13 days, shall file with the court a waiver of service of process for the defendant(s) who are  
14 waiving service.

15 Upon receipt of the CDCR Report of E-Service Waiver, the clerk shall prepare for  
16 each defendant who has not waived service according to the CDCR Report of E-Service  
17 Waiver a USM-205 Form. The clerk shall provide to the USMS the completed USM-205  
18 forms and copies of this order, the summons and the operative complaint for service upon  
19 each defendant who has not waived service. The clerk also shall provide to the USMS a  
20 copy of the CDCR Report of E-Service Waiver.

21 3. No later than **ninety-one (91) days** from the date this order is filed,  
22 Defendants shall file a motion for summary judgment or other dispositive motion with  
23 respect to the claims in the complaint found to be cognizable above.

24 a. Any motion for summary judgment shall be supported by adequate  
25 factual documentation and shall conform in all respects to Rule 56 of the Federal Rules of  
26 Civil Procedure. Defendants are advised that summary judgment cannot be granted, nor  
27 qualified immunity found, if material facts are in dispute. If any Defendant is of the  
28

1 opinion that this case cannot be resolved by summary judgment, he shall so inform the  
2 Court prior to the date the summary judgment motion is due.

3 b. In the event Defendants file a motion for summary judgment, the  
4 Ninth Circuit has held that Plaintiff must be concurrently provided the appropriate  
5 warnings under *Rand v. Rowland*, 154 F.3d 952, 963 (9th Cir. 1998) (en banc). See  
6 *Woods v. Carey*, 684 F.3d 934, 940 (9th Cir. 2012).

7 4. Plaintiff's opposition to the dispositive motion shall be filed with the Court  
8 and served on Defendants no later than **twenty-eight (28) days** from the date Defendants'  
9 motion is filed.

10 Plaintiff is also advised to read Rule 56 of the Federal Rules of Civil Procedure and  
11 *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986) (holding party opposing summary judgment  
12 must come forward with evidence showing triable issues of material fact on every essential  
13 element of his claim). Plaintiff is cautioned that failure to file an opposition to  
14 Defendants' motion for summary judgment may be deemed to be a consent by Plaintiff to  
15 the granting of the motion, and granting of judgment against Plaintiff without a trial. See  
16 *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (per curiam); *Brydges v. Lewis*, 18  
17 F.3d 651, 653 (9th Cir. 1994).

18 5. Defendants shall file a reply brief no later than **fourteen (14) days** after  
19 Plaintiff's opposition is filed.

20 6. The motion shall be deemed submitted as of the date the reply brief is due.  
21 No hearing will be held on the motion unless the Court so orders at a later date.

22 7. All communications by the Plaintiff with the Court must be served on  
23 Defendants, or Defendants' counsel once counsel has been designated, by mailing a true  
24 copy of the document to Defendants or Defendants' counsel.

25 8. Discovery may be taken in accordance with the Federal Rules of Civil  
26 Procedure. No further court order under Federal Rule of Civil Procedure 30(a)(2) or Local  
27 Rule 16-1 is required before the parties may conduct discovery.

1           9. While conducting discovery, Plaintiff is directed to attempt to ascertain the  
2 name of John Doe Defendants, and file a motion to substitute the complaint with these  
3 Defendants' proper names **no later than fifty-six (56) days** from the date this order is  
4 filed. Failure to do so will result in the dismissal of the claims against these John Doe  
5 Defendants for failure to state a claim for relief.

6           10. It is Plaintiff's responsibility to prosecute this case. Plaintiff must keep the  
7 court informed of any change of address and must comply with the court's orders in a  
8 timely fashion. Failure to do so may result in the dismissal of this action for failure to  
9 prosecute pursuant to Federal Rule of Civil Procedure 41(b).

10           11. Extensions of time must be filed no later than the deadline sought to be  
11 extended and must be accompanied by a showing of good cause.

12           **IT IS SO ORDERED.**

13           **Dated: \_May 6, 2025\_**

  
BETH LABSON FREEMAN  
United States District Judge